

MINUTES
REGULAR MEETING
CITY COUNCIL

September 14, 2015

Mel L. Cohen, Mayor

Sally W. Sandy, City Manager
Louis E. Vinay, Jr., City Attorney

John H. Cantrell)
Forrest A. Fleming) Councilmen
Sidney Simmons)
Ronnie Thompson – absent)

Becky Brinkley, Interpreter

I. The meeting was called to order in the Council Chamber at City Hall at 5:30 p.m. by Mayor Cohen.

II. Public Comment – The Mayor stated the guidelines for public comment.

- Larry Whisnant resides at 610 Valdese Avenue. Whisnant spoke about the City's animal ordinance in regards to "dangerous animals". He stated he has visited the Serval cat [being housed on Valdese Avenue] and feels the ordinance should be changed. He stated this animal has made no aggressive moves. He stated that while he worked in public safety he was involved with aggressive animals which are permitted under the ordinance. He asked the Council to consider changing the ordinance to allow animals on a case-by-case basis.

- John Freed resides at 113 Valdese Avenue. He stated he was Tyra's (the Serval cat) "dad". He stated the Serval has been domesticated for 5000 years. He has received overwhelmingly positive comments about Tyra. He stated that Servals do not rehome well and their life expectancy in captivity is 20 years. He stated that in the wild Servals were opportunistic hunters with 90% of their prey weighing less than 7 oz. Freed stated that things change over time. What was once classified as exotic is no longer considered such, giving the example of sushi which was once considered exotic and now can be found at the grocery store.

- Vivian Freed resides at 113 Valdese Avenue. She stated that Tyra was first in the limelight due to her recent escape. She stated Tyra previously never managed to escape in the six-years they have owned her. When they decided to move to Morganton they researched the laws in North Carolina and Burke County. She stated they assumed the City ordinance was the same as the County because the City is the county seat. She stated they never intended to have only window screening in the cat's enclosure, but had to bring the cat to Morganton earlier than expected. Freed cautioned others against owning a Serval as they are time consuming and expensive. Servals bond once and do not bond well a second time.

- James Kay resides in Bethlehem, NC. Kay spoke regarding the Serval cat. He recited the language used in the ordinance that makes the cat illegal. He stated the intent of the ordinance is to promote the safety and general welfare of citizens. He stated he sees no reason to think this cat is a dangerous animal. He stated the definition of “exotic” is of foreign origin or not native, introduced from abroad, but not fully naturalized or acclimatized. He continued with a list of animals not originally from here that are not dangerous. He stated that by adding the word “dangerous” in front of exotic would make this ordinance okay. He stated that to go after this cat without any complaints is just silly.

- Jeff Stark resides at 111 Valdese Avenue. Stark stated that he and his wife have no complaints about having a Serval cat living next door. He stated the Freeds give the cat the best care and the cat totally relies on the Freed family for its care. He stated that many people have had cats and dogs that have been domesticated and he feels the Serval is a continuation of that domestication process. He stated he would hate to see Tyra moved, saying that Tyra has a stable environment and home with the Freeds. Stark stated he hopes the City Council will allow the cat to stay beyond the September 28th deadline and change the ordinance or offer a variance to allow the cat to stay permanently.

- Stephanie German resides in Lenoir, NC. German spoke on behalf of Tyra. She stated the cat was by no means dangerous and feels separation would be cruel. German made several references to scripture and language in the Bible that support the premise of allowing the cat to stay.

- Melissa Bristol resides at 617 Jonestown Road, Bostic, NC. Bristol spoke on behalf of Tyra, stating she felt moving Tyra would be a great disservice. She stated she would like to see the ordinance revised. She also mentioned other exotic animals by type and questioned how the City would know if they were here.

There being no further comments, the Mayor recessed the meeting at 5:53 p.m.

III. Business of the Council – The Mayor reconvened the meeting at 6:00 p.m.

Before the Mayor began the regular portion of the meeting he made a motion to have the staff and City Attorney present proposed changes to the Animal Control ordinance to address concerns raised regarding “exotic” animals. Councilman Fleming seconded the motion which, upon vote, was passed unanimously. The Mayor stated they would like to see it on the agenda for October but that it may be November since the September and October meetings were so close together. The City Manager stated the September 28 deadline to remove the animal would be extended until the Council had time to consider and vote on changes to the ordinance.

IV. Pledge of Allegiance to the Flag – Councilman Fleming led the recitation of the Pledge of Allegiance to the Flag.

V. Invocation – The invocation was given by the Rev. Tom Bland, First Baptist Church.

VI. Introduction of Council – The Mayor introduced the Council and staff.

VII. Recognition of the Morganton Big League Softball Southeast Regional Championship Team – The Mayor commended the team, saying they were known as the most friendly and courteous team. Gary Leonhardt, Director of Recreation shared some background on the Little League in Morganton. Leonhardt stated his great admiration for the team and introduced team manager Mike Hasson.

Mike Hasson stated his appreciation to be able to speak on behalf of the team. He stated that going to the regional championship and then the world championship happened quickly; it's not something one prepares for. What made it easier for the team and families was the support from the Council, City staff and from citizens. Hasson stated that because the logistics were taken care of he could concentrate on coaching the team. He stated the Morganton Recreation Department was one of the best in the country and has a good reputation around the country. What helped them be able to perform at that high level was the support of the fans, City and leadership.

Mike introduced the team members. The team includes: Leah Hasson, Ashlie Lewis, Kaylie Cook, Kasey Cook, Bethney Cline, Brittney Westbrooks, Logan Smithers, Rebecca Epley, Tabitha Pearson, Kayla Hunt, Micaela Queen, Makaley Lovelace, Jordyn Propst, Haley Bumgarner, Katlyn Clark; coaches Rodney Bumgarner and Jody Lewis; and manager Mike Hasson.

Hasson stated again that one can't prepare for this type of event, especially the financial aspect. He stated he knew the City would step up and make it possible for the families to go and be a part of the event. He stated these are special once-in-a-lifetime events and many teams do not have this type of support.

Pam Cook, a team parent, spoke about what it meant to the families to be able to go with the team to support them during these events. She stated these girls are not just a team, they are a family. She stated that in Morganton we are not just a community, but part of the Morganton family pulling together when there is a need. Cook stated that this past summer the children saw a demonstration of what it means to be part of the Morganton family. She stated the City stepped in to help meet the need. On behalf of all the families she thanked the City for the financial support. She stated that words cannot express the appreciation for the priceless gift given to all who were able to attend. She expressed deep thanks to Gary Leonhardt for the time given to the girls and their families. She concluded with saying what a wonderful family we have in Morganton.

Hasson stated these girls' exemplified teamwork and character. Hasson stated that it has been said that one of the best honors one can receive is earning one's own way;

that is what makes this so special. However, he stated, it is even more special when you are recognized by your hometown; it is better than any trophy.

The Mayor then read a Proclamation honoring the 2015 Championship team and presented it to Manager Mike Hasson.

VIII. Presentation of Service Pins - The Personnel Committee and City staff have decided to recognize long-term employees for years of service at a Council meeting.

- Harrell Stines, Public Works, Mechanic, 20 years. Harrell was unable to attend the meeting and his supervisor will present him his pin at another time.

IX. Public Advocacy Issues and Strategies

a. The Mayor announced the following upcoming events: Farmer's Markets continue with the Wednesday mini-market on North Green and the Saturday market behind Morganton Station

- The City Manager stated the Revolutionary War Week in Burke County would be held September 26 – October 1 with a variety of activities at various locations around the County.

b. Constitution Week Proclamation: The Mayor read and presented the proclamation which was accepted by Patricia Baldi-Davis, Regent and Joyce Kendall, Constitution Week Chairman, Quaker Meadows National Society of Daughters of the American Revolution.

c. Recovery Month Proclamation: The Mayor read and presented the proclamation which was accepted by Joe Marks, Community Relations Director, Burke Recovery.

d. ElectriCities Safety Award: David R. Young, Jr., Supervisor Training & Safety. Mr. Young was unable to attend the meeting. This item will be moved to the October agenda.

e. The Mayor recognized the 2015 Community Appearance Merit Award recipients: Grace Ridge and Treat. Letters of Commendation were sent to Brown Mountain Bottleworks, Jenluma Clayworks Studio, Burke Arts Council, and Patterson's Amish Furniture.

The Mayor mentioned the 34th Historic Morganton Festival was held the past weekend and was the most orderly event in memory. He stated the weather was perfect for a festival. He stated that no other town gives the kind of quality entertainment for free that Morganton does.

X. North Carolina Municipal Power Agency Number 1 Update – The City Manager stated there was nothing to report.

XI. Consent Agenda – The City Manager presented the consent agenda and asked if any items should be removed from the Consent Agenda. No request was made.

Upon motion by Councilman Fleming, seconded by Councilman Cantrell, and unanimously carried, the consent agenda was approved and each individual item adopted as stated, these being as follows:

- A. Minutes – Minutes were approved as submitted.
- B. Tax Releases – Tax releases were approved in the amount of \$3,704.95.
- C. Appointment of Tax Collector and Resolution Adopting an Order Directing the Tax Collector to Collect Taxes – Reappointed Denise Smith as Tax Collector for a period of September 1, 2015 through August 31, 2016. Approved Resolution #15-38 Adopting an Order Directing the Tax Collector to Collect Taxes.
- D. Budget Amendment / Big League World Series – Approved a budget amendment to appropriate the receipt of contributions of \$375 to help cover expenses for the Big League World Series. Approved appropriation of funds in the amount of \$32,714 to cover expenses for the Big League World Series. (Ord. #15-41 and 15-42)
- E. Budget Amendment / Accredited Security - Approved budget amendment (Ord. #15-40) to appropriate the receipt of funds in the amount of \$10,240 from Accredited Security and the corresponding expenditure.
- F. Budget Amendment / Etta Baker Memorial Project – Approved budget amendment (Ord. #15-39) to appropriate the receipt of a \$50 contribution for the Etta Baker Memorial Project.
- G. Lease Agreement with the State Employees Credit Union for ATM Location Near Martha's Park – Approved entering into a 5-year lease agreement with the State Employees Credit Union for location and maintenance of an ATM unit in the 200 block of North College Street, near Martha's Park, at a rental of \$3,000 per year, and subject to the terms and conditions stated in the agreement.
- H. Purchase of a Leaf Vacuum Truck, Award of Financing, and Budget Amendment – Approved budget amendment (Ord. #15-38) in the amount of \$13,000 to appropriate additional funds for the purchase of a leaf vacuum truck.

Awarded the bid to purchase a new ODB Truck Mounted Vacuum Debris Collector Model SCL800SM-25 to Virginia Truck Center Inc. under the NJPA Contract #060612-ODB in the amount of \$166,018.52

Approved Resolution #15-37 to award financing for Public Safety vehicles and leaf vacuum truck in the amount of \$588,000 to First Citizen's at an interest rate of 1.26% for a period of 3 years.

I. Authorization and Approval for "Republication" of City Code Online – Approved and authorized the republication of the Charter and Code of Ordinances in an online format.

XII. Items Removed from Consent Agenda – There were no items removed from the Consent Agenda.

XIII. New Business

1. Consideration of Acceptance of a North Carolina Drinking Water State Revolving Fund (DWSRF) Loan Offer & Acceptance / Clearwell

The City Manager stated that in June 2013 and September 2014, Council adopted a resolution to authorize the City of Morganton to submit a loan application to the NC Department of Environment and Natural Resources (NCDENR). This was for funding a new clearwell at the water treatment plant. It would replace 2 existing clearwells and associated piping that were constructed in 1956 as part of the original plant.

The City has been approved for a DWSRF loan in the amount of \$1,273,552 for a term of 20 years at an interest rate of 0%.

Upon motion by Mayor Cohen, seconded by Councilman Cantrell, and carried unanimously, the Council adopted Resolution #15-36 accepting the loan offer and to authorize execution of the Offer & Acceptance Documentation.

2. Consideration of a Request Submitted by Connor Investments, LLC to Permanently Close and Abandon a Portion of Steakhouse Road Also Identified as Randall Street or S.R. 1816

The City Manager stated that Connor Investments, LLC, owner of Sagebrush Steakhouse, petitioned the City to permanently close and abandon a portion of Steakhouse Road/Randall Street. This request comes as a result of the NCDOT South Sterling Street/Exit 105 Improvement Project and plans for a new private driveway into the Sagebrush from Sterling. The roadway has been removed and eliminated but the right-of-way still exists. Connor Investments has acquired the properties along both sides of the previous street. For this reason, they have requested the City to permanently abandon the right-of-way as authorized under NCGS 160A-299. The City may consider these requests under the attached policy.

Upon review and consideration, the City staff does recommend approval of this request subject to reservation of easements for all existing utilities within the current right-of-way for maintenance and replacement.

The City Manager stated that if the City Council wished to pursue this action, a Resolution of Intent would need to be adopted describing the right-of-way requested for abandonment, and setting a public hearing date, time, place, and procedure for the public to voice their opinion on this matter.

Upon motion by Councilman Simmons, seconded by Councilman Cantrell, and carried unanimously, the Council adopted Resolution of Intent (Resolution # 15-35) to permanently close and abandon a portion of right-of-way of Steakhouse Road/Randall Street and set a public hearing date for Monday, November 2, 2015 at 6:00 PM in the City Hall Council Chambers to consider this action.

3. Consideration of a Revised Resolution Authorizing the City of Morganton to Submit an Application to the Greater Hickory Metropolitan Planning Organization in the Amount of \$1,334,566 for Surface Transportation Program - Direct Appointment Funds for the Morganton Downtown/Greenway Connector Project

The City Manager stated that in June of this year, the Morganton City Council approved a resolution to make a \$1.2 million dollar grant application through the Greater Hickory Metropolitan Planning Organization (GHMPO) for Surface Transportation Program-Direct Appointment Funding (STP-DA) for the Downtown/Greenway Connector Project. An application was submitted on the City's behalf and a 20% local match (\$240,000) was committed to the project. The project has now been recommended for funding. A meeting was held between City Development & Design Staff, NCDOT Officials and WPCOG staff to review the project and costs. Subsequent to that meeting it has been determined that additional funds would be necessary to deal with substantial water and sewer utility obstructions near the proposed pedestrian tunnel section on Sanford Drive. Additional grant funds can be rewarded for this additional work on a 20% matching basis. The revised costs estimates for the project are now \$1,668,208.50 (see attached revised budget). The staff recommends using CDBG infrastructure funds for the additional match bringing the match total to \$333,641.70. (\$240,000 General Fund, \$93,641.70 CDBG infrastructure funds)

This section of the Downtown Greenway project would link the Catawba River Greenway and Catawba Meadows to the existing section of N. Green Street Greenway which now stops at College Street. This section of trail will connect the indoor pool, the Mountain View Rec, the Housing Authority, and various business properties along N Green Street to the City's growing bike/pedestrian network. This construction project would involve one creek crossing and a tunnel installation under Sanford Drive. The total length of this project is approximately 3000 linear feet (0.57 miles).

Upon motion by Councilman Cantrell, seconded by Councilman Fleming, and carried unanimously, the Council adopted Resolution #15-34 authorizing the application for \$1,334,566 in (STP-DA) Funds through the Western Piedmont Council of Government and certifying the availability of 20% matching funds for completion of the Downtown/Greenway Connector Project.

4. Consideration of Easement Agreement with Senior Deaf & Blind Community, LLC, Including Cross Easements

The City Attorney stated that when the City sold property to Senior Deaf & Blind Community, LLC, last year for development of the “Alder Springs” housing project, the City retained a vacant lot of about 1.2 acres at the intersection of South College and West McDowell Streets, on which tract the SDBC holds a 3-year option to purchase. Now, SDBC has requested that the City grant it an easement across the back or southernmost portion of this lot, for a secondary driveway access to the Alder Springs project. Such a second entrance will be required for a development of this scope. This drive would also serve as the only access to a planned parking lot along W. McDowell at the extreme southwest corner of the SDBC property—where, as has been known to the City for some time, SDBC plans to sell land to the owners of the Old Armory Building for just that purpose. SDBC has agreed to condition its conveyance of that property on the Armory granting the City the right to use such parking lot when not needed for Armory functions (for CoMMA overflow, as needed for Public Safety, etc.).

The proposed easement agreement between the City and SDBC expressly provides for a cross easement for the planned Armory parking lot area, and for a cross easement to the City for use of the planned drive and parking area on the remainder of the Alder Springs development area closer to South College Street, within 75 feet of the City’s property line.

The City Attorney stated that SDBC is not offering any payment in return for this easement, but the cross easements would provide substantial direct benefit to the City. Under the agreement, SDBC would be solely responsible for construction and maintenance of the projected driveway. Therefore, City staff recommends approval of this agreement. In particular, the planned drive would offer the best means of access to the City’s own lot, which due to topography is not really accessible directly from South College. The planned parking developments would not only provide overflow for other City uses, but also allow convenient parking for any future development of the 1.2 acre lot.

Councilman Fleming asked for clarification on who was paying for the construction of the drive. The City Attorney stated the SDBC would be paying for the construction. Councilman Fleming then asked when the construction of the drive would take place. The City Manager stated it would be built during the development of the parking lot.

Upon motion by Mayor Cohen, seconded by Councilman Simmons, and carried unanimously, the Council approved an Easement Agreement between City of Morganton and the Senior Deaf & Blind Community, LLC, and authorized the Mayor and City Manager to execute this document and make any necessary corrections or non-substantive alterations.

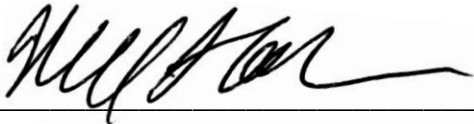
XIV. Other Items from City Manager and City Council Not on Agenda – There were no other items.

XV. Reports – Reports were distributed for information.

XVI. Closed Session to Discuss a Personnel Item as per North Carolina General Statutes sec. 143-318.11(a)(6) – The Council postponed this Closed Session to another meeting.

XVII. Adjournment –The meeting was adjourned at 6:51 p.m.

Preparation of Minutes. These minutes were prepared by Mikela D. Russell, Assistant City Clerk. Copies of all resolutions, ordinances and orders referenced in these minutes are intended to be incorporated into these minutes as if fully set forth herein. Prior to including them into the official minute book, the minutes have been read and approved by the City Manager and the City Attorney, then distributed to each member of the City Council for further review and final approval, at a subsequent Council Meeting.



Mayor

Assistant City Clerk